



Shifting the Burden of Involuntary Unemployment to the worker through the Voluntary Quit Provisions in SB 806

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Voluntary Quit Primer

Michigan's Unemployment Insurance (UI) program was created by the Michigan Employment Security Act (Act) in 1936 to provide a safety net for Michigan workers who become involuntarily unemployed. As part of the UI eligibility process the Unemployment Insurance Agency (UIA) evaluates a worker's reason for becoming unemployed. Workers that voluntarily quit their job without good cause attributable to the employer are disqualified from benefits.

The Act sets up a two-part test for quits: did the worker quit (1) involuntarily or (2) with good cause attributable to the employer. If either part is true then the worker is eligible for benefits. Over the years the Courts have upheld and refined this two-part test, refusing to find a claimant at fault when they quit because they do not have a choice between two reasonable alternatives or they have not shown an intention to quit. This two-part test recognizes that there are times when a worker must leave employment and it is neither the employer's nor the worker's fault.

SB 806 Expansion of Voluntary Quit Disqualifications

This bill expands disqualifications for quits in the following ways:

A. By adding two circumstances to the voluntary quit disqualifications that are not intentional quits:

1. (p. 126) A worker absent from work for 3 days without contacting their employer "in a manner acceptable" to the employer is treated as a voluntary quit.

- This overturns numerous court decisions which hold that a claimant must show an intention to leave their employment in order to find a quit.
- This does not take into account good faith mistakes or errors by workers
- This makes currently non-disqualifying activity rightly examined under the misconduct standard into disqualifying activity as a voluntary quit

- This gives employers unprecedented authority to determine worker eligibility for unemployment benefits

2. (p. 126) When a worker is discharged for “negligently losing a requirement of the job” it is treated as a voluntary quit.

- This overturns numerous court decisions which hold that a claimant must have shown an intention to leave their employment in order to have quit.
- This overturns Michigan Supreme Court precedent to the contrary (*Clarke v. Detroit Receiving Hospital*)
- This makes currently non-disqualifying activity rightly examined under the misconduct standard into disqualifying activity as a voluntary quit

B. By severely limiting (step 1) the involuntary leaving part of the quit test:

(p. 127) Under SB 806 "involuntary leaving" now requires a worker to do all of the following before they leave: (1) get a doctor's note saying that continuing in current job would be harmful to their health; (2) attempt to secure alternate work with the employer and (3) attempt to be placed on leave of absence with the employer.

- Section 48 of the Act disqualifies workers on a voluntary leave of absence. **This proposal requires workers to ask to be disqualified from benefits before they quit.**
- This proposal presumes that the only reason for involuntary leaving is medical when in fact there are other reasons not related to health that Courts have found cause involuntary leaving, most significantly substantial reductions in pay

C. By redefining the burden of proof in quit cases, making it much harder for workers to prove involuntariness or good cause than it is for employers to prove misconduct.

(p. 135) If a worker reports their reason for separation was voluntary leaving then worker is presumed to have quit voluntarily w/o good cause attributable to the employer. Worker must provide "substantial evidence" to rebut the presumption.

- This is much greater than the “preponderance of the evidence” required of the employer to prove a discharge for misconduct.

SB 806, with its expansion of the voluntary quit disqualifications (and many other harsh provisions) seeks to place an even greater portion of the burden of involuntary unemployment on workers, breaking with years of decisions from the state's courts.